I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450, on the date shown below.

Dated: August 29, 2003 Signature: (Sharon M. Sintich)

Docket No.: 28335/37036US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kunal Saha

Application No.: 10/040,802 Group Art Unit: 1648

Filed: December 28, 2001 Examiner: J. Stucker

For: METHODS AND MATERIALS RELATING TO CD8- TROPIC HIV-1

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, DC 20231

Dear Sir:

In a restriction requirement dated May 30, 2003, in the above-identified matter, the Patent Office alleged that pending claims 1-56 were directed to ten distinct inventions. This election is timely filed with a petition and fee for two-months extension of time.

I. Restriction

Citing 35 U.S.C. § 121, the Examiner alleged that claims 1-56 were drawn to ten distinct inventions:

I. Claims 1-10, 29, and 39-55, drawn to gp120 polypeptides;

II. Claims 11-23, 30 and 31, drawn to a nucleic acid encoding a polypeptide;

III. Claims 24, 25, and 38, drawn to an antibody;

IV. Claims 26 and 34, drawn to a method of administering a polypeptide;

V. Claims 27 and 28, drawn to a method of administering cells;

VI. Claim 32, drawn to a method of detecting polypeptides;

VII. Claim 33, drawn to a method of detecting nucleic acids;

VIII. Claims 35 and 36, drawn to a method of administering an antibody;

IX. Claim 37, drawn to administering a small molecule; and

X. Claim 56 drawn to a gp41 polypeptide.

II. Election

The Applicants hereby elect Group I, which includes claims 1-10, 29 and 39-55 drawn to gp120 polypeptides.

III. Traversal of Restrictions

A. The Applicants traverse the restriction of claim Groups I and II

The polypeptides of Group I are encoded by the polynucleotide sequences of Group II. It is probable that a search based on the polypeptides sequences of Group I will involve the same prior art and identify similar art compared to a search based on the polynucleotides of Group II. Moreover, existing search engines permit a searcher to search translations of known polynucleotide sequences in all reading frames automatically, permitting rapid comparisons of polynucleotide and polypeptide databases. Thus, it would not be a serious burden on the Examiner to do one search based on the claims in Groups I and

II. Applicants respectfully request that the restriction requirement with respect to Groups I and II be withdrawn and these groups be examined simultaneously.

B. The Applicants traverse the restriction of claim Groups I and III

The antibodies of Group III specifically bind to the polypeptides of Group I. If the search based on the polypeptides of Group I indicates these polypeptides are novel and non-obvious, the antibodies of Group III should also be novel and non-obvious. Thus, it would not be a serious burden on the Examiner to do one search based on the claims in Group I and III. Applicants respectfully request that the restriction requirement with respect to Groups I and III be withdrawn and these groups be examined simultaneously.

C. The Applicants traverse the restriction of claim Groups I and IV

The Group IV method of eliciting an immune response to a CD8-trophic HIV-1 comprise administering one or more of the polypeptides of Group I. This interrelatedness is substantiated by the fact that method claim 34 (Group IV) depends from a claim in Group I. If the polypeptides of Group I (product claims) are found novel and non-obvious under 35 U.S.C. §103(a), the Applicants may be entitled to rejoinder of claims to methods of using that product. *See* 1184 OG 86, (1996). The Applicants hereby request that, if the product claims of Group I are allowed, the Patent Office rejoin the method claims of Group IV. To facilitate efficient examination, the Applicants request that the claims of Group I and Group IV be examined simultaneously. The small number of claims in Group IV and their relatedness to Group I suggest there will be no serious burden involved. Applicants respectfully request that the restriction requirement with respect to Groups I and IV be withdrawn and these groups be examined simultaneously.

D. The Applicants traverse the restriction of claim Groups I and VI

The Group VI method of detecting CD8-trophic HIV-1 comprises detecting one or more of the polypeptides of Group I. If the polypeptides of Group I (product claims) are found novel and non-obvious under 35 U.S.C. §103(a), the Applicants may be entitled to rejoinder of claims to methods of using that product. *See* 1184 OG 86, (1996). The Applicants hereby request that, if the product claims of Group I are allowed, the Patent Office rejoin the method claims of Group VI. To facilitate efficient examination, the Applicants request that the claims of Group I and Group VI be examined simultaneously.

The small number of claims in Group VI and their relatedness to Group I suggest there will be no serious burden involved. Applicants respectfully request that the restriction requirement with respect to Groups I and VI be withdrawn and these groups be examined simultaneously.

CONCLUSION

It is respectfully requested that the restriction requirement between Groups I, II, III, IV and VI be withdrawn, and these groups be examined simultaneously with elected Group I.

Respectfully submitted,

Dated: August 29, 2003

By _____
Sharon M. Sintich
Registration No.: 48,484
MARSHALL, GERSTEIN & BORUN
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Agents for Applicant